

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

ILLINOIS BELL TELEPHONE COMPANY (SBC ILLINOIS))	
)	04-0441
Petition for Variance Pursuant to)	
Part 735 of the Commission's Rules)	

**BRIEF ON EXCEPTIONS OF THE STAFF OF
THE ILLINOIS COMMERCE COMMISSION**

Michael J. Lannon
Sean R. Brady
Office of General Counsel
Illinois Commerce Commission
160 North LaSalle Street
Suite C-800
Chicago, Illinois 60601
(312) 793-2877

January 7, 2005

*Counsel for the Staff of the
Illinois Commerce Commission*

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

ILLINOIS BELL TELEPHONE COMPANY (SBC ILLINOIS))	
)	04-0441
Petition for Variance Pursuant to)	
Part 735 of the Commission's Rules)	

**BRIEF ON EXCEPTIONS OF THE STAFF OF
THE ILLINOIS COMMERCE COMMISSION**

Now comes the Staff of the Illinois Commerce Commission ("Staff"), by its undersigned attorneys, and pursuant to Section 200.830 of the Commission's Rules of Practice (83 Ill. Adm. Code 200.830) respectfully submits this Brief on Exceptions to the Administrative Law Judge's Proposed Order issued on December 15, 2004 ("Proposed Order").

I. Introduction

Staff commends the ALJ for the well-reasoned analysis contained in the Proposed Order. The Proposed Order reaches conclusions that correctly apply the relevant statutory provisions, Commission rules, and past Commission decisions concerning a petitioned for variance from the requirements of the Commission's rules. Staff, accordingly, does not take exception to any of the findings and conclusions contained in the Proposed Order. Staff, however, does provide the ALJ with proposed language to "flesh" out the summary of Staff's position; a clarification to the proposed

Commission imposed condition, and also suggests a few clarifications in the Findings and Ordering Paragraphs.

II. Summary of Staff's Position

Staff recommends that the following changes be made to the summary of Staff's position. Staff believes that the proposed additional language fleshes out the summary of Staff's position, which more accurately reflects the positions that Staff took on certain matters at issue in this proceeding.

Ms. Howard, in her Verified Statement on behalf of Staff, testified that the Staff finds many of SBC Illinois' reasons for requesting the waiver to be well founded. First, Ms. Howard emphasized that the variance is available as an *option* at the request of the SBC Illinois' local customer. Second, she noted that the waiver is applicable only to bills of SBC Illinois local customers who have purchased Unlimited Toll/LD Packages at a flat rate. Third, and critically important in the Staff's view, the SBC Illinois local customer would have the *option* to request suppression of call detail for Unlimited Toll/LD Packages and at any time, without charge, retain the *option* to change their prior request and return to receiving call detail on a going forward basis. These factors, in the Staff's view, all mitigate in favor of granting SBC Illinois' requested variance. Staff Ex. 1.0 (Howard), at 4.

Ms. Howard, however, noted that the Staff had certain concerns regarding SBC Illinois' requested variance. Due to these concerns, Staff conditioned a favorable Staff recommendation to the Commission upon SBC Illinois agreeing to the following conditions. First, in order to allow SBC Illinois' customers who purchase Unlimited Toll/LD Packages to switch from call detail suppression back to receiving call detail, and to allow customers to evaluate their telecom usage for any given month or to compare months of usage, the Staff proposed that SBC Illinois or the applicable IXC other than SBC Long Distance retain the call detail data, including usage data, for at least 24 months. See Staff Ex. 1.0 (Howard), at 4.

Second, Staff was concerned that SBC Illinois local customers that have an IXC other than SBC Long Distance would not be offered the same call detail suppression options as the end user customer that has SBC Illinois as its local carrier and SBC Long Distance as its IXC. Staff Ex. 1.0 (Howard), at 4-5. The Staff, therefore, conditioned a favorable

recommendation upon a commitment by SBC Illinois to offer call detail suppression to its end-user customers that use an IXC other than SBC Long Distance. *Id.*, at 5. In addition, the call detail suppression should be the same as what SBC Illinois provides to end-user customers that have SBC Illinois as its local carrier and SBC Long Distance as its inter-exchange carrier. *Id.* Staff understood that SBC Illinois could meet this condition by notifying the IXCs with whom they have billing and collection agreements (“B&C agreements”) that SBC Illinois will be offering this option to IXCs (and their end-users) that renegotiate the applicable B&C agreement, if needed. *Id.*

As noted above, in order to address the concerns of Staff, SBC Illinois agreed to Staff’s proposed conditions under Staff agreed upon circumstances. ~~stated that Staff had no opposition to SBC Illinois’ petition, as long as SBC Illinois was willing to make the suppression option available to any of its local service customers, regardless of the customer’s IXC or toll carrier. Ms. Howard also sought assurance that customers could obtain 24 months of past toll detail upon request. Consequently, in light of SBC Illinois agreement with Staff’s conditions, Staff recommended to the Commission that it grant the variance requested.~~

Staff, while noting that it does not agree with the AG that consumers will be harmed by this proposed waiver, agreed with the AG that consumers should be able to access information about local toll calls and long distance calls so they can comparison shop for phone services. Staff concluded that such information can be acquired by the consumer under the Staff’s proposed conditions.

III. Clarification of the Commission Imposed Condition

Staff recommends the following changes to the second full paragraph found on page 6. Staff recommends these changes to clarify exactly which customers need to be notified regarding their ability to change from call detail suppression back to receiving the full call detail otherwise required by Rule 735.70(b)(1)(G). 83 Ill. Admin. Code 735.70(b)(1)(G).

The variance as proposed does not take into account that a flat-rated the customer that has chosen call detail suppression may not

remember or understand that the suppression is reversible and that detail information is available. Over time such a customer's telephone usage pattern may change. A flat rate calling plan with summary billing that made sense initially may stop being a good idea. For this reason we find it appropriate that such the customers be advised in writing, prominently displayed on each bill, that he or she may obtain bill detail in writing detail by calling and requesting same from a designated number or, on line, by contacting a designated website.

IV. Findings and Ordering Paragraphs

The Staff recommends minor changes be made to Findings Paragraphs 7 through 9. Staff recommends its proposed language to Finding 7 to clarify that the petition for variance is only reasonable and consistent with the public interest if the conditions articulated in Findings Paragraphs 8 and 9 are met. Staff recommends adding its proposed additional language to Findings Paragraph 8 to, as noted above, clarify exactly which customers need to be notified regarding their ability to change back from call detail suppression to receiving the full call detail otherwise required by Rule 735.70(b)(1)(G). Staff recommends its proposed additional language to Finding Paragraph 9 to ensure that SBC Illinois will notify the IXC's with whom they have billing and collection ("B&C") agreements that SBC Illinois will be offering this option to IXC's (and their end-users) that renegotiate the applicable B&C agreement, if needed. Staff also recommends that semi-colons replace the periods found at the end of Findings Paragraphs 8 and 9.

Finally, in all three paragraphs the Proposed Order appears to refer to the call detail suppression in three different ways, and if that is the case then Staff recommends that the same phrase be used in all three locations. In Paragraph 7 the Proposed Order

refers to “toll call detail”, in paragraph 8 it refers to “call detail” and in paragraph 9 it refers to “toll detail.” Staff recommends that simply “call detail” be used in each location, since that is the term Mr. Becker defined on page 2 of his testimony (SBC Illinois Exhibit 1.0). Using a consistent term will prevent confusion if this case is relied upon in the future.

- (7) the granting of a variance to allow SBC Illinois to offer suppression of ~~toll~~-call detail to interested residential and business customers who have unlimited toll calling plans is reasonable and consistent with the public interest in light of the following conditions;
- (8) as a condition of granting said variance SBC Illinois will be required to state prominently on each bill of a flat-rated customer that has affirmatively requested call detail suppression that the customer may obtain call detail by calling a designated number or by going to a designated computer website where the customer can review this information-;
- (9) as a further condition of granting this variance, SBC shall make the suppression option available to any of its local service customers, regardless of the customer’s IXC or toll carrier, by providing notice to carriers that have entered into billing and collection agreements with SBC Illinois of the suppression option, and make available 24 months of past ~~toll~~call detail upon request without cost to any call suppression option customer- ;

Regarding the Ordering Paragraphs, Staff recommends that the following changes be made to the Ordering Paragraphs. Staff’s proposed language change to the second Ordering Paragraph would clarify that a customer would have to take affirmative action to request to have their call detail requested, rather than call detail being suppressed due to a lack of action by the customer.

IT IS FURTHER ORDERED that the variance granted above is applicable only to business and residential customers of SBC Illinois who have

subscribed to an unlimited toll calling plan and who have affirmatively requested ~~greet~~ to have their call detail suppressed.

V. CONCLUSION

WHEREFORE, for all the reasons set forth herein, the Staff of the Illinois Commerce Commission respectfully requests that its recommendations be adopted in this proceeding.

Respectfully submitted,

Michael J. Lannon
Sean R. Brady
Office of General Counsel
Illinois Commerce Commission
160 North LaSalle Street
Suite C-800
Chicago, Illinois 60601
(312) 793-2877

January 7, 2005

Counsel for the Staff of the
Illinois Commerce Commission